



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

September 19, 2013

REQUEST: City Council Bill 13-0252/ Rezoning – 3101 East Monument Street

For the purpose of changing the zoning for the property known as 3101 East Monument Street, as outlined in red on the accompanying plat, from the R-8 Zoning District to the B-1 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Martin French

PETITIONER: Eric Williams

OWNERS: Eric Williams and Vice Karlis

SITE/GENERAL AREA

Site Conditions: 3101 East Monument Street is located on the southeast corner of the intersection with Ellwood Avenue. This property measures approximately 14'8" by 68' and is currently improved with a two-story brick end-of-row residential mixed-use building measuring approximately 14'8" by 50'. This site is zoned R-8 and is located in the East Monument National Register Historic District.

General Area: This property is located on the northern edge of the Ellwood Park – Monument neighborhood. The majority of this community is residential in nature, with the predominant stock consisting of row houses. Across Monument Street from this property is the Madison-Eastend neighborhood, also a predominantly residential community. One block east of this property, Monument Street meets Edison Highway's southern end and a predominantly commercial and industrial area begins, extending eastward along both sides of Monument Street and Pulaski Highway.

HISTORY

There are no previous legislative or Planning Commission actions regarding this site. This property has been zoned R-8 since April 1971 when the current Zoning Code and maps were adopted.

CONFORMITY TO PLANS

There are no calls for rezoning this property through the Comprehensive Master Plan, or any other similar plan. The property is not in an area plan neighborhood. In TransForm Baltimore, the Planning Commission has recommended that this property and its block and immediate environs remain zoned R-8 (Proposed Zoning Map Area 8-A).

ANALYSIS

In 1996 the Board of Municipal and Zoning Appeals (BMZA) approved use of this property for a barber shop and beauty shop, and in 2004 another application was made to use the property for a beauty salon. When in September 2012 Mr. Williams, the petitioner, requested a use and occupancy (U & O) permit for a barber shop and salon, this was denied on the basis that nonconforming commercial use of the property had been discontinued and abandoned by way of being closed for over one year (12 consecutive months, as specified in the Zoning Code). As the applicant may not be able to receive BMZA approval for this request, this bill has been filed to enable him to receive the necessary U & O permit based on a change of zoning. Adoption of the TransForm Baltimore concept of allowing “neighborhood commercial establishments” as conditional uses in R-8 (and similar higher-density residential) districts could in the future allow these types of uses to be established, once the new zoning code has become effective.

Maryland Land Use Code – Requirements for Rezoning:

The Maryland Land Use Code requires the Planning Commission to study the proposed changes in relation to: 1. The plan; 2. The needs of Baltimore City; and 3. The needs of the particular neighborhood in the vicinity of the proposed changes (*cf.* Md. LAND USE Code Ann. 2012, §10-305). In reviewing this request, the staff finds that:

1. **The Plan:** There is nothing in the Comprehensive Master Plan that calls for rezoning of this parcel, and the property is not in an area plan neighborhood or Urban Renewal Area. In TransForm Baltimore, the draft land use maps show this parcel retaining its R-8 or equivalent residential zoning. Under the proposed new zoning code, limited neighborhood commercial-type uses would be conditionally allowed in some residential areas.
2. **The needs of Baltimore City:** The City has an adequate supply of commercially zoned land already, and this proposed zoning does not address a perceived City need.
3. **The needs of the particular neighborhood:** Staff does not see a great demand for more commercial zoning in this particular neighborhood, considering ample availability of commercial property in the commercial corridor to the west on East Monument Street.

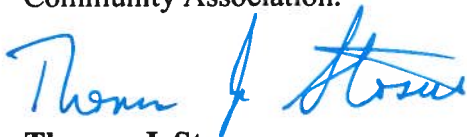
Similarly, the Land Use article requires the City Council to make findings of fact (*cf.* Md. LAND USE Code Ann. 2012, §10-304). The findings of fact include:

1. **Population changes;** There have been no significant changes in population in this area causing a need for additional commercially-zoned properties in the area.

2. **The availability of public facilities;** Adequate public facilities exist in the area for a wide range of uses.
3. **Present and future transportation patterns;** There are no anticipated changes or additional demands on the transportation patterns in this area.
4. **Compatibility with existing and proposed development for the area;** The requested higher-intensity B-1 commercial zoning would be immediately adjacent to the existing R-8 neighborhood and would allow by right various business uses that would not be compatible with adjacent row homes. Because this rezoning would affect only one row-house, staff views this as a request for a form of spot zoning, which would be inappropriate.
5. **The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA);** For the above reasons, the Planning Department will recommend disapproval of the rezoning request to the Planning Commission.
6. **The relation of the proposed amendment to the City's plan.** There are no calls for rezoning this property through the Comprehensive Master Plan, or any other similar plan.

The City Council may grant the amendment to change the zoning classification based on a finding that there was: (i) a substantial change in the character of the neighborhood where the property is located; or (ii) a mistake in the existing zoning classification. There has been no substantial change in the character of the neighborhood, as it has remained residential for over 40 years; and there was no apparent mistake in the designation of this block of East Monument Street as part of a R-8 Residential District, as all but these corner-store types of end-of-row buildings were and have remained entirely residential in use.

Community Input: The following community organizations have been notified of this action: Ellwood Park Improvement Association, Inc.; Madison East End Improvement Association, Inc.; Madison East End Neighborhood Improvement Association; and Sign of a New Era Community Association.



Thomas J. Stosur
Director